

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GEOTAG, INC.	§	
	§	
PLAINTIFF,	§	
	§	C.A. NO. 2:10-CV-00569-TJW
v.	§	
	§	JURY TRIAL DEMANDED
GEORGIO ARMANI S.P.A., ET AL	§	
	§	
DEFENDANTS.	§	

**CONN'S APPLIANCES, INC. AND CONN'S INC.'S
ANSWER TO COMPLAINT AND COUNTERCLAIMS**

Connø Appliances, Inc. and Connø Inc. (collectively ðConnøö) submit their Answer and Counterclaims to the Complaint filed by GEOTAG, Inc. (ðGEOTAGö), and state as follows:

THE PARTIES

1-9. Connø lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 1-19 of GEOTAGø Complaint and, therefore, denies the same.

10. Connø admits that Connø Appliances, Inc. has a place of business in Beaumont, Texas.

11. Connø admits that Connø Inc. has a place of business in Beaumont, Texas.

12-25. Connø lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 21-50 of GEOTAGø Complaint and, therefore, denies the same.

JURISDICTION AND VENUE

26. Connø admits this is a case alleging patent infringement and that the Court has subject matter jurisdiction, but denies it has committed any acts of infringement.

27. Connø admits that venue and jurisdiction are proper, at least with respect to Connø, in this Court for this case, but denies it has committed any acts of infringement. Connø denies that venue in the Marshall Division is convenient.

28. Connø admits that venue is proper, at least with respect to Connø. Connø denies that venue in the Marshall Division is convenient.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,930,474

29. Connø denies that the 5,930,474 patent (õthe -474 patentö) was issued on July 29, 1999. Connø denies the remaining allegations in Paragraph 29.

30. Connø lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of GEOTAGø Complaint and, therefore, denies the same.

31. Connø denies the allegations in Paragraph 31 of the Complaint.

32. Connø denies the allegations in Paragraph 32 of the Complaint.

33-38. Connø lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 33-38 of GEOTAGø Complaint and, therefore, denies the same.

39. Connø denies the allegations in Paragraph 39 of the Complaint.

40-51. Connø lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 40-51 of GEOTAGø Complaint and, therefore, denies the same.

52. Connø denies the allegations in Paragraph 52 as they relate to Connø.

53. Connø denies the allegations in Paragraph 53 as they relate to Connø.

PRAYER FOR RELIEF

54. Connø denies that GEOTAG is entitled to any of the relief sought in its prayer for relief. GEOTAGø prayer should be denied in its entirety and with prejudice, and GEOTAG should take nothing.

DEMAND FOR JURY TRIAL

55. Connø also demands a jury trial on all issues so triable.

AFFIRMATIVE DEFENSES

Further answering GEOTAGø Complaint, Connø hereby states its affirmative defenses pursuant to Fed. R. Civ. P. 8(c), as follows:

FIRST AFFIRMATIVE DEFENSE

(Non-Infringement)

56. Connø is not infringing, and has not infringed, directly, by inducement, contributorily, or in any way, either literally or under the doctrine of equivalents, any valid and asserted claims of the -474 patent.

SECOND AFFIRMATIVE DEFENSE

(Invalidity)

57. The claims of the -474 patent, as asserted by GEOTAG, are invalid because they fail to comply with the requirements of 35 U.S.C. § 101 *et seq.*, including, without limitation, Sections 101, 102, 103 and/or 112.

THIRD AFFIRMATIVE DEFENSE

(Equitable Defenses)

58. GEOTAG's claims are barred, in whole or in part, by the equitable doctrines of laches, unclean hands, estoppel and waiver.

FOURTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel and/or Disclaimer)

59. GEOTAG's allegations are barred by the doctrines of Prosecution History Estoppel and/or Disclaimer and waiver from asserting the claims of the -474 patent.

FIFTH AFFIRMATIVE DEFENSE

(Statutory Damages Limitation)

60. GEOTAG's claims for damages are statutorily limited or barred by 35 U.S.C. §§ 286 and/or 287.

SIXTH AFFIRMATIVE DEFENSE

(Injunctive Relief Unavailable)

61. GEOTAG's claims for injunctive relief are barred because there exists an adequate remedy at law and GEOTAG's claims otherwise fail to meet the statutory requirements for such relief.

SEVENTH AFFIRMATIVE DEFENSE

(Improper Joinder)

62. Some or all of the Defendants have been improperly joined in a single action, and Connø asserts its right to a separate trial.

EIGHTH AFFIRMATIVE DEFENSE

(Lack of Standing)

63. GEOTAGø claims are barred due to lack of standing and/or lack of ownership to the extent GEOTAGø allegations extend beyond the patent rights owned by GEOTAG.

CONN'S COUNTERCLAIMS AGAINST GEOTAG

As for its counterclaims against GEOTAG, Connø complains as follows:

64. Connø is a Delaware corporation with a principal place of business at 3295 College Street, Beaumont, Texas 77701.

65. On information and belief (and according to Paragraph 1 of GEOTAGø Complaint), GEOTAG is a Delaware corporation with a place of business in Plano, Texas.

66. This is a claim for declaratory judgment arising under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

67. GEOTAG is subject to personal jurisdiction in this judicial district, at least because it has availed itself of the benefit of the Court for the present action.

68. Venue for this counterclaim is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I

(For Declaratory Judgment of Non-Infringement)

69. Connø repeats and realleges the allegations of the preceding paragraphs in this counterclaim as if fully set forth herein.

70. Contrary to GEOTAG's allegations, Connø is not infringing, and has not infringed, directly, by inducement, contributorily, or in any way, either literally or under the doctrine of equivalents, any valid and asserted claims of the -474 patent.

71. To resolve the legal and factual questions raised by GEOTAG, and to afford relief from the uncertainty and controversy that GEOTAG's accusations have precipitated, Connø is entitled to a declaratory judgment that it does not infringe any claim of the -474 patent.

COUNT II

(For Declaratory Judgment of Invalidity)

72. Connø repeats and realleges the allegations of the preceding paragraphs in this counterclaim as if fully set forth herein.

73. Contrary to GEOTAG's allegations, the claims of the -474 patent are invalid under one or more sections of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103 and/or 112.

74. To resolve the legal and factual questions raised by GEOTAG, and to afford relief from the uncertainty and controversy that GEOTAG's accusations have

precipitated, Connø is entitled to a declaratory judgment that the claims of the -474 patent are invalid.

CONN'S PRAYER FOR RELIEF

Connø respectfully requests that this Court enter judgment in its favor and grant the following relief:

- (a) A declaration that Connø does not infringe any claim of the -474 patent;
- (b) A declaration that the claims of the -474 patent are invalid;
- (c) Dismissal of all of GEOTAGø claims in their entirety with prejudice;
- (d) A declaration that GEOTAG take nothing by way of its Complaint;
- (e) An order awarding Connø its costs;
- (f) An order finding that this is an exceptional case and awarding Connø its reasonable attorney fees pursuant to 35 U.S.C. § 285; and
- (g) An order awarding such additional relief as the Court may deem appropriate and just under the circumstances.

Dated: April 21, 2011

Respectfully submitted,

By: /s/ J. Thad Heartfield

J. Thad Heartfield

Texas Bar No. 09346800

E-mail: thad@jth-law.com

M. Dru Montgomery

Texas Bar No. 24010800

E-mail: dru@jth-law.com

THE HEARTFIELD LAW FIRM

2195 Dowlen Road

Beaumont, Texas 77706

Telephone: (409) 866-3318

Fax: (409) 866-5789

COUNSEL FOR DEFENDANTS,
CONNø APPLIANCES, INC. AND
CONNø INC.

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 21st day of April, 2011. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield
J. Thad Heartfield